

JUDGE CASTEL
Jason A. Lief (JAL-7742)
MORGAN LEWIS & BOCKIUS, LLP
101 Park Avenue
New York, NY 10178
(212) 309-6000

05 07

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
NOVOGEN RESEARCH PTY. LTD.

Plaintiff,

vs.

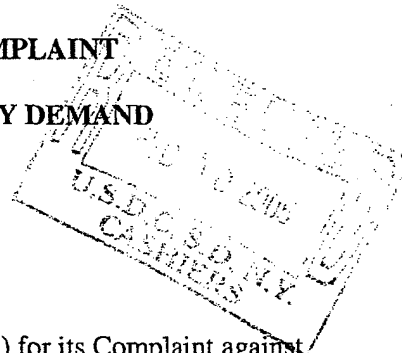
NATURAL ALTERNATIVES INT'L, INC.

Defendant.
-----X

Civil Action No. _____

COMPLAINT

JURY DEMAND



Plaintiff Novogen Research Pty. Ltd. ("Novogen") for its Complaint against
defendant Natural Alternatives Int'l, Inc. avers and alleges as follows:

JURISDICTION AND PARTIES

1. This is a civil action for patent infringement arising under the patent laws of the United States, 35 U.S.C. §§271 et. seq.
2. Jurisdiction and venue are proper in this Judicial District pursuant to 28 U.S.C. §§ 1331, 1338(a), 1391, 1400(b) and N.Y. Civ. Prac. L & R 302(a).
3. Plaintiff Novogen is an Australian corporation having its principal place of business in New South Wales, Australia.
4. Defendant Natural Alternatives Int'l, Inc. is a Delaware corporation doing business in, residing in (pursuant to 28 U.S.C. §1391(c)) and committing acts of patent infringement in this Judicial District.

**CAUSE OF ACTION FOR PATENT INFRINGEMENT
OF UNITED STATES PATENT NO. 6,562,380**

5. On May 13, 2003, United States Letters Patent No. 6,562,380 ("the '380 patent") entitled "Methods for Treating or Reducing Pre-Disposition to Breast Cancer, Pre-Menstrual Syndrome or Symptoms Associated With Menopause By Administration of Phyto-Estrogen", was duly and legally issued to Graham Edmund Kelly. A true and correct copy of the '380 patent is attached to this Complaint as Exhibit A.

6. Plaintiff Novogen Research Pty. Ltd. is the owner and assignee of the '380 patent with full right to enforce the '380 patent.

7. Upon information and belief, defendant Natural Alternatives Int'l, Inc. has been on notice of the allowance of the patent since January 30, 2002 when a letter was directed to the Chief Executive Officer of Natural Alternatives Int'l, Inc. and has been on notice of the existence of the patent itself since at least June 6, 2003 when another letter was directed to the Chief Executive Officer of Natural Alternatives Int'l, Inc.

8. Defendant Natural Alternatives Int'l, Inc. has committed acts of infringement of said '380 patent in this Judicial District and elsewhere by selling products containing certain phytoestrogens from clover or equivalent sources that are used for the patented method and by inducing and contributing to the use of the patented method without authority or license from plaintiff. Upon information and belief, such acts of infringement by defendant have been willful.

9. Plaintiff has suffered and will continue to suffer damages and irreparable injury as a result of defendant Natural Alternatives Int'l, Inc.'s infringement unless enjoined by this Court.

REQUEST FOR RELIEF

Wherefore, plaintiff prays for judgment:

10. That defendant Natural Alternatives Int'l, Inc. has infringed United States Letters Patent No. 6,562,380.

11. Ordering that defendant, its officers, subsidiaries, agents, servants, employees, and attorneys and all persons in active concert or participation with any of them, be preliminary and permanently enjoined and restrained from any further infringement of United States Letters Patent No. 6,562,380.

12. Awarding plaintiff Novogen its damages caused by defendant Natural Alternatives Int'l, Inc., and that such damages be trebled.

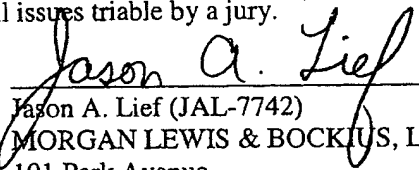
13. Awarding plaintiff interest, costs and disbursements in this action, including reasonable attorney's fees pursuant to 35 U.S.C. §285; and

14. Awarding plaintiff such further relief as the Court may deem just and proper.

JURY DEMAND

15. Plaintiff requests a jury for all issues triable by a jury.

Dated: January 25, 2005



Jason A. Lief (JAL-7742)
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JUDGE CASTEL

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

05 CV 1983

NOVOGEN RESEARCH PTY. LTD.

Plaintiff

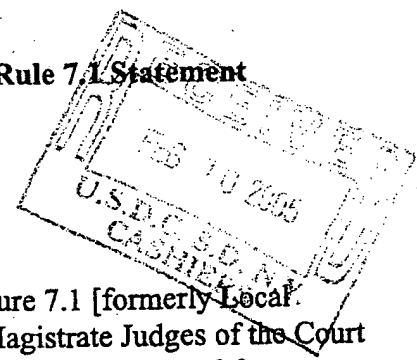
Case No.

-v-

NATURAL ALTERNATIVES INTERNATIONAL, INC.

Defendant

Rule 7.1 Statement



Pursuant to Federal Rule of Civil Procedure 7.1 [formerly Local General Rule 1.9] and to enable District Judges and Magistrate Judges of the Court to evaluate possible disqualification or recusal, the undersigned counsel for Novogen Research Pty. Ltd. (a private non-governmental party) certifies that the following are corporate parents, affiliates and/or subsidiaries of said party, which are publicly held.

Novogen Limited (ADR traded as NVGN)

Marshall Edwards, Inc. (variously trades as MSH or MSHL or MSHLW)

Date: February 10, 2005

Jason A. Lief
Signature of Attorney

Attorney Bar Code:

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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NOVOGEN RESEARCH PTY. LTD.	:
	:
Plaintiff,	:
	:
v.	:
	:
NATURAL ALTERNATIVES INT'L, INC.	:
	:
Defendant.	:
-----X	

**RULE 7.1 DISCLOSURE
STATEMENT**

05 Civ. 01983 (PKC)

Filed Via ECF

Pursuant to Fed. R. Civ. P. 7.1, Defendant Natural Alternatives International, Inc. states that it has no parent corporation and that there exists no publicly held corporation that owns 10% or more of its stock.

Respectfully submitted,

Dated: April 27, 2005



Mark J. Abate, Esq. (MA2395)
Kimber L. Blackburn, Esq. (KB3156)

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Facsimile: (212) 415-8701

Attorneys for Defendant
Natural Alternatives International, Inc.

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

NOVOGEN RESEARCH PTY. LTD.	X	
	:	
Plaintiff,	:	ANSWER, COUNTERCLAIMS
	:	AND JURY DEMAND
v.	:	
	:	05 Civ. 01983 (PKC)
NATURAL ALTERNATIVES INT'L, INC.	:	
	:	Filed Via ECF
Defendant.	:	
	X	

Defendant Natural Alternatives International, Inc. (hereinafter "NAI") for its
Answer to the Complaint herein states:

JURISDICTION AND PARTIES

1. Admits the averments of paragraph 1.
2. Admits the averments of paragraph 2.
3. It is without knowledge or information sufficient to form a belief as to the truth of the averments of paragraph 3.
4. Admits it is a Delaware corporation and that it transacts business in this Judicial District. Denies the remaining averments of paragraph 4.

**CAUSE OF ACTION FOR PATENT INFRINGEMENT
OF UNITED STATES PATENT NO. 6,562,380**

5. Is without knowledge or information sufficient to form a belief as to the truth of the averments of paragraph 5, except that United States Patent No. 6,562,380 B1 (hereinafter "the '380 patent") bears an issue date of May 13, 2003, on its face identifies Graham Edmund Kelly as the "inventor," and has a Certificate of Correction which corrects the title to

“Methods for Treating or Reducing Predisposition to Premenstrual Syndrome or Symptoms Associated with Menopause by Administration of Phytoestrogen.”

6. Is without knowledge or information sufficient to form a belief as to the truth of the averments of paragraph 6, except that Novogen Research Pty. Ltd. (hereinafter “Novogen”) is identified as the “assignee” on the face of the ‘380 patent.

7. Is without knowledge or information sufficient to form a belief as to the truth of the averments of paragraph 7, except that it received a letter from Warren Lancaster of Novogen, Inc. in Stamford, CT dated February 14, 2005 which referred in its text to an earlier letter dated June 6, 2003 which allegedly advised NAI of the existence of the ‘380 patent.

8. Denies the averments of paragraph 8.

9. Denies the averments of paragraph 9.

10. Denies that Novogen is entitled to any of the relief averred in the prayer for relief.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE: THE ‘380 PATENT IS NOT INFRINGED

11. NAI has not infringed and is not infringing the ‘380 patent.

SECOND AFFIRMATIVE DEFENSE: THE ‘380 PATENT IS INVALID

12. The ‘380 patent is invalid under 35 U.S.C. §§ 102, 103 and/or 112.

THIRD AFFIRMATIVE DEFENSE: LACHES

13. Novogen’s alleged damages accrued prior to filing this action are barred by the equitable doctrine of laches.

FOURTH AFFIRMATIVE DEFENSE:
FAILURE TO STATE A CLAIM

14. Novogen's Complaint fails to state any claim against NAI upon which relief can be granted.

FIFTH AFFIRMATIVE DEFENSE:
FAILURE TO JOIN AN INDISPENSABLE PARTY

15. Novogen has failed to join a necessary and indispensable party to this litigation.

COUNTERCLAIMS OF NATURAL ALTERNATIVES INTERNATIONAL, INC.

Counterclaim Plaintiff Natural Alternatives International, Inc. (hereinafter "NAI")
for its Counterclaims against Counterclaim Defendant Novogen Research Pty. Ltd. (hereinafter "Novogen") alleges and avers as follows:

16. This is a counterclaim for declaratory judgment pursuant to 28 U.S.C. §§ 2201 and 2202. This counterclaim arises under the United States Patent Laws, 35 U.S.C. §§ 102, 103, 112 and 271. The Court has jurisdiction over the subject matter pursuant to 28 U.S.C. § 1338(a). Venue is proper in this Judicial District under 28 U.S.C. § 1391(d).

17. NAI is a corporation organized and existing under the laws of the State of Delaware, having a regular and established place of business at 1185 Linda Vista Drive, San Marcos, CA 92078.

18. Upon information and belief, Novogen is an Australian corporation having its principal place of business in New South Wales, Australia.

19. On February 10, 2005, Novogen filed an action for alleged patent infringement of United States Patent No. 6,562,380 B1 (hereinafter "the '380 patent") against NAI.

20. The '380 patent is entitled "Methods for Treating or Reducing Predisposition to Premenstrual Syndrome or Symptoms Associated with Menopause by Administration of Phytoestrogen" and on its face identifies Novogen as the assignee.

21. By virtue of the Complaint filed herein, an actual controversy exists between Novogen and NAI with respect to the scope and invalidity of the '380 patent and with respect to the right of NAI to continue the actions which Novogen has charged to be infringements of the '380 patent.

COUNT I
DECLARATION OF NONINFRINGEMENT OF THE '380 PATENT

22. NAI reasserts and incorporates by reference the averments in Paragraph Nos. 16-21 of its Counterclaim.

23. NAI's activities do not constitute infringement of any valid claim of the '380 patent under 35 U.S.C. § 271.

COUNT II
DECLARATION OF PATENT INVALIDITY OF THE '380 PATENT

24. NAI reasserts and incorporates by reference the averments in Paragraph Nos. 16-21 of its Counterclaim.

25. The '380 patent is not valid for failure to comply with the requirements of 35 U.S.C. §§ 102, 103 and 112.

JURY DEMAND

NAI demands a trial by jury for each issue of its Counterclaims triable to a jury.

RELIEF

WHEREFORE, Defendant/Counterclaim Plaintiff NAI respectfully requests that the Court enter judgment:

- a. dismissing the Complaint against NAI with prejudice;
- b. declaring that NAI has not infringed any valid claim of the '380 patent;
- c. declaring that each of the claims of the '380 patent is not valid;
- d. enjoining Novogen, its officers, agents, attorney, employees and those in active concert with them from interfering in any way with the activities of NAI;
- e. deeming this case exceptional pursuant to 35 U.S.C. § 285, Novogen having asserted the '380 patent against NAI when it knew or on reasonable investigation should have known that this assertion was baseless because the '380 patent is invalid and not infringed, and consequently awarding NAI its reasonable attorney fees and costs; and
- f. awarding NAI such further relief as the Court deems just and proper.

Respectfully submitted,



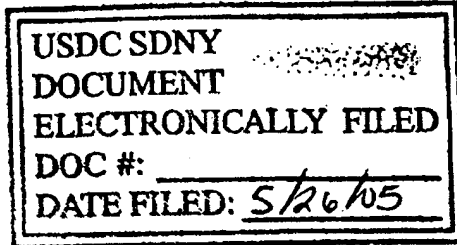
Dated: April 27, 2005

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Attorneys for Defendant
Natural Alternatives International, Inc.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK



NOVOGEN RESEARCH PTY. LTD.

Plaintiff,

vs.

NATURAL ALTERNATIVES INT'L, INC.

Defendant.

Civil Action No. 05 Civ. 1983 (PKC)

CIVIL CASE MANAGEMENT PLAN
AND SCHEDULING ORDER

This Civil Case Management Plan, submitted in accordance with Rule 26(f), Fed.R.Civ.P., is adopted as the Scheduling Order of this Court in accordance with Rule 16(f), Fed.R.Civ.P.

1. All parties (~~consent~~) (do not consent) to conducting all further proceedings before a Magistrate Judge, including motions and trial. 28 U.S.C. § 636(c).
2. This case (is) (~~is not~~) to be tried to a jury
3. Amended pleadings may not be filed and additional parties may not be joined except with leave of the Court. Any motion to amend or to join additional parties shall be filed within 30 days from the date of this Order.
4. Initial disclosure pursuant to Rules 26(a)(1), Fed. R. Civ. P., shall be completed not later than 21 days from the date of this Order.
5. All fact discovery shall be completed no later than December 5, 2005.
6. The parties are to conduct discovery in accordance with the Federal Rules of Civil Procedure and the Local Rules of the Southern District of New York. The following interim deadlines maybe extended by the written consent of all parties without application to the Court, provided all fact discovery is completed by the date set forth in paragraph 5 above:
 - a. Initial requests for production of documents to be served by June 30, 2005.
 - b. Initial Interrogatories to be served by June 30, 2005 *and parties may serve contentions*
 - c. Fact depositions to be completed by December 5, 2005.

PKC on (a) interrogatories ad (b) validity.

- d. Expert depositions to be completed 30 days after exchange of rebuttal expert reports.
 - e. Requests to Admit to be served no later than October 21, 2005.
7. *Markman*/Claim Construction Procedure:
- a. On October 14, 2005, the parties will exchange lists of claim terms in dispute, proposed constructions of those terms, and the support for the proposed construction.
 - b. On December 19, 2005, the parties shall file and serve their briefs setting forth their proposed claim construction for any disputed claim terms and all support therefore.
 - c. On February 6, 2006, the parties shall file and serve their responsive briefs setting forth their proposed claim construction for any disputed claim terms and all support therefore.
 - d. A *Markman* Hearing will be scheduled for March 2006.
- 7A. Expert discovery shall be completed thirty (30) days after the exchange of rebuttal expert reports.
- a. The party with the burden of proof upon an issue shall serve and file its expert report on or before 4 weeks after the *Markman* decision.
 - b. Expert reports intended solely to contradict or rebut evidence on the same subject matter identified by the other party in a previously submitted expert report shall be served and filed no later than 7 weeks after the *Markman* decision.
8. All motions and applications shall be governed by the Court's Individual Practices, including pre-motion conference requirements. Pursuant to the authority of Rule 16(b)(2), Fed. R. Civ. P., a motion for summary judgment will be deemed untimely unless a request for a pre-motion conference relating thereto is made in writing within fourteen (14) days of the close of fact discovery (see paragraph 5 hereof).
9. All counsel must meet fact-to-face for at least one hour to discuss settlement within fourteen (14) days following the close of fact discovery.

10. a. Counsel for the parties have discussed an informal exchange of information in aid of an early settlement of this case and have agreed upon the following:

- b. Counsel for the parties have discussed the use of the following alternate dispute resolution mechanisms for use in this case: (i) a settlement conference before a Magistrate Judge; (ii) participation in the District's Mediation Program; and/or (iii) retention of a privately retained mediator. Counsel for the parties propose the following alternate dispute resolution mechanism for this case:

- c. Counsel for the parties recommend that the alternate dispute resolution mechanism designated in paragraph b, be employed at the following point in the case (e.g. within the next sixty days; after the deposition of plaintiff (specify date); after the close of fact discovery)

- d. The use of any alternative dispute resolution mechanism does not stay or modify any date in this Order.

11. The Final Pretrial Submission Date is ³⁰~~120~~ days following the close of fact and expert discovery (whichever is later). By the Final Pretrial Submission Date, the parties shall submit a Joint Pretrial Order prepared in accordance with the undersigned's Individual Practices and Rule 26(a)(3), Fed. R. Civ. P. Any motions in limine (for which the premotion conference requirement is waived) shall be filed by the Final Pretrial Submission Date. If this action is to be tried before a jury, proposed voir dire, jury instructions and verdict form shall also be filed by the Final Pretrial Submission Date. Counsel are required to meet and confer on a joint submission of proposed jury instructions and verdict form, noting any points of disagreement in the submission. Jury instructions may not be submitted after the Final Pretrial Submission Date, unless they meet the standard of Rule 51(a)(2)(A), Fed. R. Civ. P. If this action is to be tried to the Court, proposed findings of fact and conclusions of law should be submitted by the Final Pretrial Submission Date.

PKC

12. Counsel for the parties have conferred and their present best estimate of the length of trial is: eight (8) days

*Plaintiff's reply to counterclaim
due twenty (20) days from today.*

TO BE COMPLETED BY THE COURT:

13. [Other directions to the parties] *Principals to meet for settlement discussions prior to September 16, 2005*
14. The (next Case Management) (Final Pretrial Conference) is scheduled for *September 30, 2005 at 2:15 PM.*

This ORDER may not be modified or the dates herein extended, except by further Order of this Court for good cause shown. Any application to modify or extend shall be made in a written application in accordance with paragraph 1(E) of the Court's Individual Practices and shall be made no less than five (5) days prior to the expiration of the date sought to be extended.


P. Kevin Castel

United States District Judge

Dated: New York, New York

Aug 25, 2005

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

NOVOGEN RESEARCH PTY. LTD.,	X	
	:	
Plaintiff,	:	
v.	:	
	:	05 CV 01983 (PKC)
NATURAL ALTERNATIVES INTERNATIONAL, INC.	:	
	:	
Defendant.	:	
	X	

**NOVOGEN RESEARCH PTY. LTD.'S REPLY TO DEFENDANT'S
ANSWER, COUNTERCLAIMS AND JURY DEMAND**

Plaintiff Novogen Research Pty. Ltd. ("Novogen") by and through its undersigned counsel, as its reply to the counterclaims asserted by Defendant Natural Alternatives International, Inc. ("NAI"), states as follows:

COUNTERCLAIMS

1. Novogen admits to the allegations of paragraph 16 of the Counterclaims inasmuch as this Court has subject matter jurisdiction over actions arising under 28 U.S.C. § 2201, et seq. and the patent laws of the United States. Novogen further admits that exclusive jurisdiction over the counterclaims is conferred upon the Court pursuant to 28 U.S.C. § 1338(a) and admits that NAI purports to base jurisdiction for its counterclaims under these statutory sections. Novogen denies any liability arising from these counterclaims. Novogen further admits that venue is proper in this Judicial District under 28 U.S.C. § 1391(d).

2. Based on information taken from NAI's Answer, Counterclaims and Jury Demand, Novogen admits to the allegations of Paragraph 17 of the Counterclaims.

3. Novogen admits to the allegations of Paragraph 18 of the Counterclaims.
4. Novogen admits to the allegations of Paragraph 19 of the Counterclaims.
5. Novogen admits to the allegations of paragraph 20 of the Counterclaims.
6. Novogen admits to the allegations of Paragraph 21 of the Counterclaims.

Counterclaim I – Declaration of Noninfringement of the ‘380 Patent

7. Novogen hereby incorporates its responses to the allegations of Paragraphs 16 through 21 of the Counterclaims as if fully set forth in their entirety.

8. Novogen denies the allegations in Paragraph 23 of the Counterclaim.

Counterclaim II – Declaration of Patent Invalidity of the ‘380 Patent

9. Novogen hereby incorporates its responses to the allegations of Paragraphs 16 through 21 of the Counterclaims as if fully set forth in their entirety.

10. Novogen denies the allegations in Paragraph 25 of the Counterclaim.

11. To the extent NAI will attempt to rely on allegations set forth in its Affirmative Defenses to support its Counterclaims, Novogen denies the allegations set forth in all five of NAI's Affirmative Defenses.

12. Novogen denies that NAI is entitled to any relief averred in the prayer for relief.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

NAI's Counterclaims fail to state a claim upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

NAI's Counterclaims are barred in whole or part by the doctrine of equitable estoppel.

THIRD AFFIRMATIVE DEFENSE

NAI's Counterclaims are barred in whole or part by the doctrine of waiver.

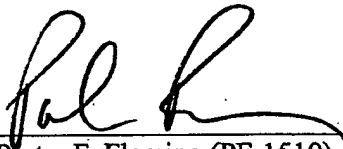
FOURTH AFFIRMATIVE DEFENSE

NAI's Counterclaims are barred in whole or part by the doctrine of laches.

WHEREFORE, Novogen Research Pty. Ltd. respectfully requests that:

- (a) NAI's Counterclaims be dismissed with prejudice; and
- (b) The Court grant the relief sought in Novogen's Complaint.

Dated: New York, New York
June 14, 2005



Porter F. Fleming (PF-1510)
James K. Stronski (JS-4883)
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(212) 588-0800

Attorneys for Plaintiff
Novogen Research Pty. Ltd.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----x
Novogen Research Pty. Ltd.

Plaintiff,

-against-

Natural Alternatives Int'l, Inc.

Defendants
-----x

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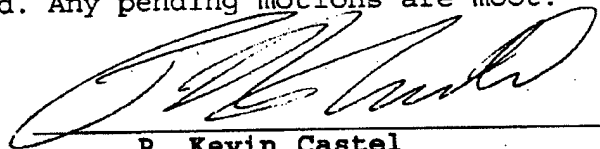
05 Civ. 1983 (PKC)

ORDER OF DISMISSAL

ORDER OF DISCONTINUANCE

The Court having been advised that all claims asserted herein have been settled, it is

ORDERED, that the above-entitled action be and is hereby dismissed and discontinued without costs, and without prejudice to the right to reopen the action within thirty (30) days if the settlement is not consummated. Any pending motions are moot.



P. Kevin Castel
United States District Judge

Dated: New York, New York
September 27, 2005

MEMO ENDORSED

FROMMER LAWRENCE & HAUG LLP

745 FIFTH AVENUE NEW YORK, NEW YORK 10151

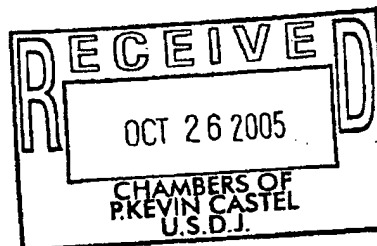
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DOC #:
DATE FILED: 10/26/05

October 26, 2005

By Hand

Honorable P. Kevin Castel
United States District Judge
U.S. District Court for the
Southern District of New York
United States Courthouse
500 Pearl Street
New York, NY 10007



Re: Novogen Research Pty. Ltd. v. Natural Alternatives Int'l, Inc.
Civil Action No.: 05-01983 (PKC)

Dear Judge Castel:

On September 26, 2005 I wrote to the Court informing you that the parties had agreed in principle regarding settlement and were working on a settlement agreement and related documents. On September 27th Your Honor issued an Order of Dismissal "without prejudice to the right to reopen the action within thirty (30) days if the settlement is not consummated."

The parties respectfully and jointly request that the Order of Dismissal be extended for an additional 30 days so the parties can finalize the settlement. As plaintiff, we have prepared settlement documents, provided them to defendant's counsel and are waiting for their client's comments and a red-lined version. *OK*

In the alternative, if the Court will not extend this deadline, we request that the action be reopened. Should you wish to discuss these matters with counsel, we are available by telephone.

Respectfully submitted,

Porter F. Fleming
Porter F. Fleming
Counsel for Novogen Research Pty. Ltd.

PFF:ap

cc: Mark J. Abate, Esq. (via facsimile)
Counsel for Natural Alternatives Int'l, Inc.

*Appellate granted.
SO ORDERED
10/26/05
USDJ*

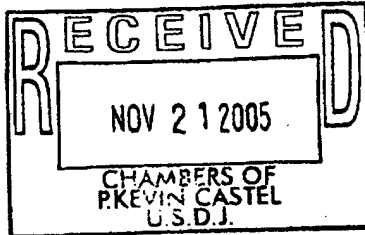
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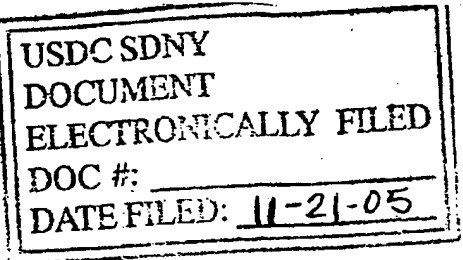
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MEMO ENDORSED

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DARREN M. SIMON
DAVID A. ZWALLY
PEARL TENG LING SEW
JOYCE W. LUK
DILLON KIM
LESLIE C. ALLEN*
NATHAN D. WEBER
SAMUEL S. LEE*
MAGALI ROZENFELD
H. SARAH PARK
SCOTT A. CLARK
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DEBORAH L. LU, Ph.D.
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ANTONIO PAPAGEORGIOU
ANTHONY D. MISTILLO
*Admitted to a Bar
other than New York

November 21, 2005

By Hand

Honorable P. Kevin Castel
United States District Judge
U.S. District Court for the
Southern District of New York
United States Courthouse
500 Pearl Street
New York, NY 10007

Re: Novogen Research Pty. Ltd. v. Natural Alternatives Int'l, Inc.
Civil Action No.: 05-01983 (PKC)

Dear Judge Castel:

I write on behalf of both parties to jointly request a further 30 day extension of your October 26, 2005 Order extending the date of the Order of Dismissal with the right to reopen this action if settlement is not consummated. The parties have been diligently revising, editing and working towards a final settlement document that will be acceptable to our respective clients. Thank you in advance for your continued courtesy in this matter.

In the alternative, if the Court will not extend the present deadline, plaintiff requests that the action be reopened. Should you wish to discuss these matters with counsel, we are available by telephone.

Respectfully submitted,

Porter F. Fleming
Counsel for Novogen Research Pty. Ltd.

PFF:ap

cc: Mark J. Abate, Esq. (via facsimile)
Counsel for Natural Alternatives Int'l, Inc.

*A. M. ... granted
SO ORDERED
JSP
11-21-05*

CALIFORNIA OFFICE
4660 LA JOLLA VILLAGE DR. SUITE 850 SAN DIEGO, CA 92122
TEL: (858) 731-5000 FAX: (858) 731-5001

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FROMMER LAWRENCE & HAUG

745 FIFTH AVENUE NEW YORK, NEW YORK 10151

TEL: (212) 588-0800 FAX: (212) 588-0500

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: 12/27/05

MEMO ENDORSED

WILLIAM B. FROMMER
WILLIAM F. LAWRENCE
EDGAR H. HAUG
MATTHEW K. RYAN
BARRY S. WHITE
THOMAS J. KOWALSKI
JOHN R. LANE
DANIEL G. BROWN
STEVEN M. AMUNDSON
MARILYN MATTHEW BROGAN
JAMES K. STROBOSKI
CHARLES J. RAUBUSHECK
GRACE L. PAN*
JEFFREY A. HOVDEN
RONALD R. SANTUCCI
RICHARD E. PARKER
LEONARD J. SANTISI
PORTER F. FLEMING
JOHN C. TAYLOR
KEVIN F. MURPHY
ARTHUR L. HOAG
SANDRA KUZMICH, Ph.D.
STEPHEN J. LEE

Of Counsel
A. THOMAS S. SAFFORD
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*Admitted to a Bar
other than New York

December 20, 2005

VIA FACSIMILE

Honorable P. Kevin Castel
United States District Judge
U.S. District Court for the
Southern District of New York
United States Courthouse
500 Pearl Street
New York, NY 10007

Re: Novogen Research Pty. Ltd. v. Natural Alternatives Int'l, Inc.
Civil Action No.: 05-01983 (PKC)

Dear Judge Castel:

I write on behalf of both parties to jointly request a final 30 day extension of your October 26, 2005 Order extending the date of the Order of Dismissal with the right to reopen this action if settlement is not consummated. The parties are in the final stages of completing settlement documents that will be acceptable to our respective clients. Thank you in advance for your continued courtesy in this matter.

In the alternative, if the Court will not extend the present deadline, plaintiff requests that the action be reopened. Should you wish to discuss these matters with counsel, we are available by telephone.

On behalf of both parties, we wish you and yours a Happy Holiday season.

Respectfully submitted,

Porter F. Fleming
Counsel for Novogen Research Pty. Ltd.

PFF:bf

cc: Mark J. Abate, Esq. (via facsimile)
Counsel for Natural Alternatives Int'l, Inc.

*Application
Granted.
SO ORDERED.
J. Castel
USDJ
12-21-05*

OK

CALIFORNIA OFFICE
4660 LA JOLLA VILLAGE DR. SUITE 850 SAN DIEGO, CA 92122
TEL: (858) 731-5000 FAX: (858) 731-5001

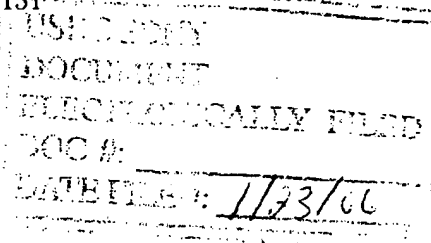
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FROMMER LAWRENCE & HAUG LLP

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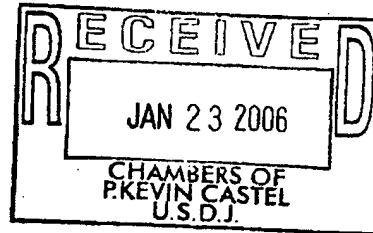
MEMO ENDORSED



January 20, 2005

BY HAND DELIVERY

Honorable P. Kevin Castel
United States District Judge
U.S. District Court for the
Southern District of New York
United States Courthouse
500 Pearl Street
New York, NY 10007



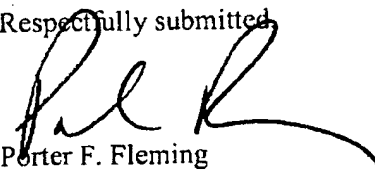
Re: Novogen Research Pty. Ltd. v. Natural Alternatives Int'l, Inc.
Civil Action No.: 05-01983 (PKC)

Dear Judge Castel:

I write on behalf of the parties to inform the Court that despite our efforts, the parties were not able to finalize a settlement agreement before today's deadline.

Pursuant to your December 21, 2005 Order extending our right to reopen the action if a settlement could not be consummated, Plaintiff requests that the case be reopened. Should you wish to discuss these matters with counsel, we are available by telephone.

Respectfully submitted,


Porter F. Fleming
Counsel for Novogen Research Pty. Ltd.

PFF:ap

cc: Mark J. Abate, Esq. (via facsimile)
Counsel for Natural Alternatives Int'l, Inc.

*Application
Granted. Parties
have to appear for a
conference on
February 17, 2006 at 9:45 a.m.
S.D. ORDERED
J. L. [unclear]
USDC
1-23-06*

WILLIAM S. FROMMER
WILLIAM F. LAWRENCE
EDGAR H. HAUG
MATTHEW K. RYAN
BARRY S. WHITE
THOMAS J. KOVALSKI
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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Novogen Research Pty.

Plaintiff(s),

- against -

Natural Alternatives Int'l.

Defendant(s).

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 2/17/06

05 Civ. 1983 (PKC)

AMENDED

CIVIL CASE MANAGEMENT PLAN
AND SCHEDULING ORDER

This Civil Case Management Plan, submitted in accordance with Rule 26(f), Fed. R. Civ. P., is adopted as the Scheduling Order of this Court in accordance with Rule 16(f), Fed. R. Civ. P.

1. All parties (~~consent~~) (do not consent) to conducting all further proceedings before a Magistrate Judge, including motions and trial. 28 U.S.C. § 636(c). [~~Circle one.~~] If all consent, the remaining paragraphs need not be completed.
2. This case (is) (~~is not~~) to be tried to a jury. [~~Circle one.~~]
3. Amended pleadings may not be filed and additional parties may not be joined except with leave of the Court. Any motion to amend or to join additional parties shall be filed within ___ days from the date of this Order. [Absent exceptional circumstances, thirty (30) days.]
4. Initial disclosure pursuant to Rules 26(a)(1), Fed. R. Civ. P., shall be completed not later than ___ days from the date of this Order. [Absent exceptional circumstances, fourteen (14) days.]
5. All fact discovery shall be completed no later than August 4, 2006. [A period not to exceed 120 days, unless the Court finds that the case presents unique complexities or other exceptional circumstances.]
6. The parties are to conduct discovery in accordance with the Federal Rules of Civil Procedure and the Local Rules of the Southern District of New York. ~~The following interim deadlines may be extended by the written consent of all parties without application to the Court, provided all fact discovery is completed by the date set forth in paragraph 5 above:~~
 - a. Initial requests for production of documents to be served by _____.
 - b. Interrogatories to be served by _____.

- c. ~~Depositions to be completed by _____.~~
- d. ~~Requests to Admit to be served no later than _____.~~
7. a. All expert discovery shall be completed no later than September 30, 2006.
[Absent exceptional circumstances, a date forty-five (45) days from the date in paragraph 5, i.e. the completion of all fact discovery.]
- b. No later than thirty (30) days prior to the date in paragraph 5, i.e. the completion of all fact discovery, the parties shall meet and confer on a schedule for expert disclosures, including reports, production of underlying documents and depositions, provided that (i) plaintiff(s)' expert report(s) shall be due before those of defendant(s)' expert(s); and (ii) all expert discovery shall be completed by the date set forth in paragraph 7(a).
8. All motions and applications shall be governed by the Court's Individual Practices, including pre-motion conference requirements. Pursuant to the authority of Rule 16(b)(2), Fed. R. Civ. P., a motion for summary judgment will be deemed untimely unless a request for a pre-motion conference relating thereto is made in writing within fourteen (14) days of the close of fact discovery (see paragraph 5 hereof).
9. All counsel must meet face-to-face for at least one hour to discuss settlement within fourteen (14) days following the close of fact discovery.
10. a. Counsel for the parties have discussed an informal exchange of information in aid of an early settlement of this case and have agreed upon the following:

- b. Counsel for the parties have discussed the use of the following alternate dispute resolution mechanisms for use in this case: (i) a settlement conference before a Magistrate Judge; (ii) participation in the District's Mediation Program; and/or (iii) retention of a privately retained mediator. Counsel for the parties propose the following alternate dispute resolution mechanism for this case: _____
- c. Counsel for the parties recommend that the alternate dispute resolution mechanism designated in paragraph b, be employed at the following point in the case (e.g. within the next sixty days; after the deposition of plaintiff is completed (specify date); after the close of fact discovery) _____
- d. The use of any alternative dispute resolution mechanism does not stay or modify any date in this Order.

October 10, 2006

11. The Final Pretrial Submission Date is ~~thirty (30) days~~ following the close of fact and expert discovery (whichever is later). By the Final Pretrial Submission Date, the parties shall submit a Joint Pretrial Order prepared in accordance with the undersigned's Individual Practices and Rule 26(a)(3), Fed. R. Civ. P. Any motions in limine (for which the pre-motion conference requirement is waived) shall be filed by the Final Pretrial Submission Date. If this action is to be tried before a jury, proposed voir dire, jury instructions and verdict form shall also be filed by the Final Pretrial Submission Date. Counsel are required to meet and confer on a joint submission of proposed jury instructions and verdict form, noting any points of disagreement in the submission. Jury instructions may not be submitted after the Final Pretrial Submission Date, unless they meet the standard of Rule 51(a)(2)(A), Fed. R. Civ. P. If this action is to be tried to the Court, proposed findings of fact and conclusions of law should be submitted by the Final Pretrial Submission Date.

12. Counsel for the parties have conferred and their present best estimate of the length of trial is:

TBD

=====

TO BE COMPLETED BY THE COURT:

The action is reinstated.
The matter referred to Magistrate
Judge for settlement.

13. [Other directions to the parties]

14. The (next ~~Case Management~~) (Final Pretrial Conference) is scheduled for October 20 at 10:30 am.

This ORDER may not be modified or the dates herein extended, except by further Order of this Court for good cause shown. Any application to modify or extend shall be made in a written application in accordance with paragraph 1(E) of the Court's Individual Practices and shall be made no less than five (5) days prior to the expiration of the date sought to be extended.



P. Kevin Castel
United States District Judge

Dated: New York, New York
February 17, 2006

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Novogen Research Pty. Ltd.

Plaintiff,

-against-

Natural Alternatives Int'l, Inc.

Defendant.

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 2/17/06

ORDER OF REFERENCE
TO A MAGISTRATE JUDGE

05 Civ.1983 (PKC)(HBP)

The above entitled action is referred to the designated Magistrate Judge for the following purpose(s):

General Pretrial (includes scheduling, discovery, non-dispositive pretrial motions, and settlement)

Specific Non-Dispositive Motion/Dispute:*

If referral is for discovery disputes when the District Judge is unavailable, the time period of the referral: _____

☒ Settlement*

☐ Inquest After Default/Damages Hearing

☐ Consent under 28 U.S.C. §636(c) for all purposes (including trial)

☐ Consent under 28 U.S.C. §636(c) for limited purpose (e.g., dispositive motion, preliminary injunction)

Purpose: _____

☐ Habeas Corpus

☐ Social Security

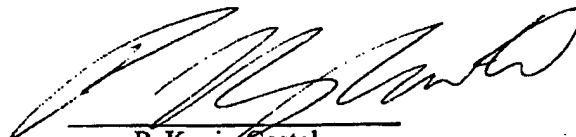
☐ Dispositive Motion (i.e., motion requiring a Report and Recommendation)

Particular Motion: _____

All such motions: _____

* Do not check if already referred for general pretrial.

SO ORDERED.



P. Kevin Castel
United States District Judge

DATED: New York, New York
February 17, 2006